

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3344 of 1992

For Approval and Signature:

Hon'ble MR. JUSTICE H.R. SHELAT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

SEVANIKETAN TRUST THROUGH MAITIBHAI DABHI

Versus

GOVT OF GUJARAT

THROUGH MATTBHAT DABHT

Appearance:

MR. J.D. ALMERA for Petitioners

MRS. ROHINI ACHARYA for Respondent No. 1

MR. MIKILL SINHA for Respondent No. 5

CORAM : MR. JUSTICE H.R. SHELAT

Date of decision: 26/09/2000

ORAL JUDGEMENT

The petitioners who runs the Ashram Shala at Khedbrahma in backward area of Sabarkantha District pray for a Writ of Mandamus or any other appropriate Writ quashing and setting aside the instruction issued by the

Ashram Shala Adhikari, Gandhinagar to the District Education Officer, Himmatnagar regarding grant, salary and other benefits qua Smt. Minaben Indrajit Sharma, (Respondent No.5) appointed as a Teacher in 1983.

2. The petitioners runs Ashram Shala at Khedbrahma. It is the recognised school for the purpose of grant and the Same is receiving 100% grant relating to the teaching staff and non-teaching staff. Inclusive of the principal, there were 5 teachers. On 10th May, 1983, the principal went to U.S.A. handing over the charge to Jethabhai I. Patel. Later-on, the principal sent his resignation from U.S.A. To fill-up the vacancy, the petitioners requested the District Education Officer to give No-Objection Certificate. The District Education Officer vide its letter dtd. 27th September, 1983, granted permission to appoint the teacher for a period of three months only. Hence, giving an advertisement, applications were invited and undergoing necessary formalities inclusive of interview, the Selection Committee selected the respondent No.5 for being appointed as the Assistant teacher for three months as per the permission granted. The appointment letter dtd.12/10/1983 was then issued and she joined the service as Assistant Teacher. Upto December 1985 from the Grant her salary was being paid, but on being realised that despite the permission period was over, no action for regularisation of her services was then taken by the school authority, an objection was raised by the office of the district Education Officer, Himmatnagar and payment of the salary to respondent No.5 from the grant was stopped. The Gujarat Secondary School Teachers Tribunal was then moved filing Application No.136 of 1986. On 20/10/1989, the application was partly allowed and the petitioners are directed to pay the salary to the respondent NO.5 from their own fund, whether they get the grant or not. Against the said order, this petition is filed.

3. The question raised in this petition relating to regularisation of the appointment, payment of the alary from the grant thereof, recovery of the amount of the grant not paid right from 1985 and meeting with other expenses incurred, or to be incurred by the petitioners owing to the appointment of respondent NO.5 who is without any break is still serving.

4. Having heard the learned counsel for the parties, I do not think it necessary to enter into the merits of the rival cases as the cause to attract Writ Jurisdiction is lacking. However, with necessary direction as

submitted by the learned counsel which may work as elixir, the petition can be disposed of; and if that is done, nothing further is required to be done. The respondent No.5 or the petitioners are to represent their case for a fresh consideration, with the hope that the invigorating, fecundus, & febrifugal decision will be taken.

5. The respondent Nos. 1 to 5 or the respondent No.3 if he is authorised & competent shall consider the representation if made by the petitioners or respondent No.5 individually or collectively and hearing them, shall pass the order in accordance with law with regards to the release of the grant from 1st June, 2000 and every relevant issue that has arisen because of the appointment of the respondent Nos. 5 as the Assistant Teacher. It is hoped that the authority shall dispose of the representation within a period of three months after the receipt thereof. With such direction, the petition is disposed of. Rule discharged.

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